

The House Committee on Judiciary offers the following substitute to HB 306:

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 31 of Title 36 of the Official Code of Georgia Annotated, relating to incorporation of municipal corporations, so as to provide that at a point in time in the process of legislative consideration of a new incorporation, other municipal corporations shall be prohibited from annexing territory proposed for inclusion in a new municipal corporation; to provide for the defeasance of annexations of territory proposed for inclusion in a new municipal corporation when such annexations took place after a point in time; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 31 of Title 36 of the Official Code of Georgia Annotated, relating to incorporation of municipal corporations, is amended by adding a new Code section to read as follows:

"36-31-13.

(a) The General Assembly finds and determines that:

(1) In the legislative process of the creation of a new municipal corporation, orderly procedure requires that there be a date certain for determination of the boundaries of the new municipal corporation; and

(2) In order for that objective to be accomplished, other municipal corporations must be prohibited at some point in time from annexing territory proposed for inclusion in a proposed new municipal corporation.

(b) As used in this Code section, the term:

(1) 'Charter' means a local Act of the General Assembly creating or proposing the creation of a new municipal corporation and does not include a local Act granting a new charter to an existing municipal corporation.

(2) 'New municipal corporation' means a new municipal corporation of this state created by or proposed to be created by a charter.

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(3) 'Pending charter' means a charter which has been enacted by the General Assembly and which may or may not become fully effective pending the outcome of one or more conditions.

(c) When a pending charter has not yet become fully effective because of a pending referendum election, pending submission or federal consideration under the federal Voting Rights Act of 1965, as amended, or other pending conditions precedent:

(1) No other municipal corporation may annex any part of the territory described in the charter as included or proposed for inclusion within the new municipal corporation. This prohibition shall be dissolved if the creation or continued existence of the proposed new municipal corporation under the charter definitively ceases to be possible because of defeat at a referendum election, definitive final failure to secure approval under the federal Voting Rights Act of 1965, as amended, or definitive failure of any other condition specified in the charter; and

(2) Any annexation by any other municipal corporation of any part of the territory described in the pending charter as included or proposed for inclusion within the new municipal corporation, which annexation had an effective date on or after the opening day of the session at which the charter was introduced, shall be defeased and any such territory so annexed shall by operation of law be deannexed from the annexing municipal corporation as of the date on which the Governor approves the charter or the date on which the charter becomes law without the Governor's approval. For purposes of this paragraph the effective date of an annexation is the first day of the month following the month during which the requirements of Article 2, 3, or 4 of Chapter 36 of this title have been met."

## SECTION 2.

It is the specific intent of the General Assembly that the provisions of this Act apply not only prospectively but also concurrently and retroactively with respect to a pending charter enacted at the 2007 or any earlier session of the General Assembly as follows:

(1) With respect to a pending charter enacted at the 2007 session, this Act shall prohibit future annexations and shall defease any annexation that is defeasible by the terms of this Act with respect to any such annexations which have an effective date on or after the opening day of the 2007 session, as provided by the terms of Code Section 36-31-13 as enacted by this Act;

(2) With respect to a pending charter enacted prior to the 2007 session, this Act shall prohibit future annexations and shall defease any annexation that is defeasible by the terms of this Act with respect only to any such annexations which have an effective date after November 2, 2006, notwithstanding the fact that the terms of Code Section 36-31-13

1 as enacted by this Act would defease annexations which had an effective date on or after  
2 an earlier date;

3 (3) Notwithstanding the provisions of paragraph (2) of this section, an annexation shall  
4 not be defeased if the annexation had an effective date on or after November 2, 2006, and  
5 prior to March 2, 2007, and the annexation was by the 100 percent method of annexation  
6 provided in Article 2 of Chapter 36 of Title 36 of the O.C.G.A., consisted of the property  
7 of a single owner, and was a tract of 15 acres or less.

8 **SECTION 3.**

9 This Act shall become effective upon its approval by the Governor or upon its becoming law  
10 without such approval.

11 **SECTION 4.**

12 All laws and parts of laws in conflict with this Act are repealed.